



UNITED STATES PATENT AND TRADEMARK OFFICE

YJC
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,088	02/16/2002	Graham Lindley Spruill	IMA-0014-OXYPAK	7112

7590 12/18/2002

Edward L. Kelley
5 Utica Street
Lexington, MA 02420

EXAMINER

MENDOZA, MICHAEL G

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 12/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Offic Action Summary	Applicati n N .	Applicant(s)
	10/075,088	SPRUIELL, GRAHAM LINDLEY
	Examiner	Art Unit
	Michael G. Mendoza	3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 16 February 2002.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-24 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-24 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Pri ority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.

4) Interview Summary (PTO-413) Paper No(s). _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____.

Sp cification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because undue length. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 5, 7, 8, 14-16, 19-20, 22, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson 4197842.

5. Anderson teaches an emergency medical kit, comprising a breathable oxygen delivery system, a medication, an oxygen storage tank, a regulator valve, an oxygen delivery tube hang an inlet attached to the regulator valve, a user oxygen delivery device (see figure), wherein the kit is fully capable for use in response to a heart attack

and a stroke, wherein the kit is fully capable of using a medication prescribe for a particular user by a physician and wherein the user has a known susceptibility to one of a heart attack and a stroke, is fully capable of assisting in preventing thrombosis, inducing arteriolar relaxation, establishing a cardiac rhythm, assisting in diminishing oxygen demand, wherein the breathable oxygen supply is prescribed by a physician (col. 3, lines 21-23).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-4, 13, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson.

8. As to claim 2, Anderson teaches the emergency medical kit of claim 1, 5, 7, 8, 14-16, 19-20, 22, and 23. It should be noted that Anderson fails to teach the wherein the portable oxygen tank comprises a composite material over wrapped onto a gas impermeable inner vessel. However, it would have been obvious to one of ordinary skill in the art use any type of oxygen tank because the type of oxygen tank is a mere design choice and that any oxygen tank would perform equally well. Furthermore, the Applicant has not disclosed that the specific type of oxygen tank solves any stated problems or is for any particular purpose and it appears that the invention would perform equally well with the oxygen tank taught by Anderson.

9. As to claim 3, 4, 13, 17 and 18, Anderson teaches the emergency medical kit of claims 1, 5, 7, 8, 14-16, 19-20, 22, and 23. It should be noted that Anderson fails to specifically teach the limitation wherein the oxygen tank has an empty weight of less than 5.0 or 2.0 pounds. However, it would have been obvious to one of ordinary skill to use an oxygen tank within the claimed limitations to facilitate the portability of the kit.

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Lowell et al. 6292687.

11. Anderson teaches the emergency medical kit of claim 5. It should be noted that Anderson fails to teach the kit further comprising one of a wireless communication device and a loud noise-making device.

12. Lowell et al. teaches a common wireless communication device 31 and a loud noise-making device 30 for detecting, location and responding to a predetermined medical emergency. Therefore it would have been obvious to one of ordinary skill in the art to modify the kit of Anderson to include the devices of Lowell et al. to alarm that a victim needs immediate help, and also to provide immediate information of the victim's location (col. 2, lines 62-64).

13. Claims 9-12, 21, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Isaacs et al. 6462050 in further view of Spada et al. 5561134 in further view of Duhaylongsod 6141589.

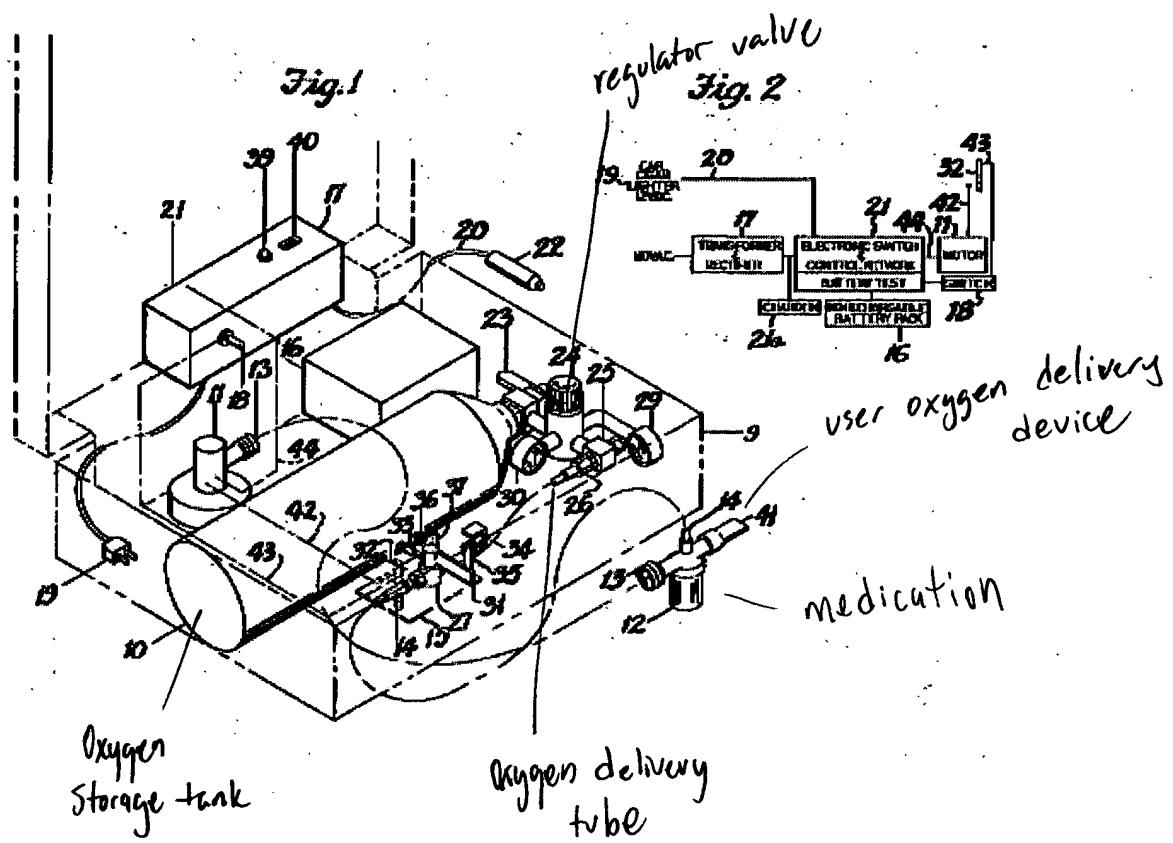
14. Anderson teaches the emergency medical kit of claim 1, 5, 7, 8, 14-16, 19-20, 22, and 23. It should be noted that Anderson fails to specifically teach wherein the

medication comprises one of an anticoagulant, an antiarrhythmic agent and a cardioprotective agent.

15. Spada et al. teaches a common cardioprotective agent comprising beta blockers and ACE inhibitors for reducing ischemic injury. Therefore it would have been obvious to one of ordinary skill in the art to include the cardioprotective of Spada et al. to reduce ischemic injury or myocardial infarct size due to heart attack (col. 4, lines 23-27).

16. Isaacs et al. teaches a common anticoagulant agent comprising heparin for inhibiting thrombins. Therefore it would have been obvious to one of ordinary skill in the art to include the anticoagulant of Isaacs et al. for treating thrombotic stroke (col. 1, lines 48-51).

17. Duhaylongsod teaches a common antiarrhythmic agent medication comprising magnesium for controlling the heart. Therefore it would have been obvious to one of ordinary skill in the art to include the antiarrhythmic of Duhaylongsod for precise pacing and control of cardiac contraction during heart attacks or surgery.



Art Unit: 3761

Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael G. Mendoza whose telephone number is (703) 305-3285. The examiner can normally be reached on Mon.-Fri. 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-4520 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

MM

MM
December 12, 2002



GLENN K. DAWSON
PRIMARY EXAMINER